

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:21-cr-129

Civil case 3:23-cv-00255

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

HARVEY T. CULBRETH,

:

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (ECF No. 55) to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

Accordingly, it is hereby ORDERED that Defendant's Motion to Vacate under 28 U.S.C. § 2255 (ECF No. 53) be dismissed with prejudice. Defendant is DENIED any requested certificate of appealability and the Court hereby certifies to the United States Court of Appeals that an appeal would be objectively frivolous and therefore should not be permitted to proceed in forma pauperis.

Pursuant to Fed.R.Civ.P. 58, the Clerk shall enter judgment to this effect.

October 5, 2023

s/Thomas M. Rose

Thomas M. Rose

United States District Judge